

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
At Bluefield**

CONSOLIDATION COAL COMPANY,

Plaintiff,

v.

CIVIL ACTION NO. 1:07-CV-0558

BLUESTONE COAL CORPORATION,

Defendant.

AGREED ORDER OF DISMISSAL

As part of a global resolution of disputes, the parties have submitted to the Court this Agreed Order, whereby this case is dismissed with prejudice. However, as part of the resolution of the dispute, the parties have agreed that this Order reference the Court's earlier Order granting summary judgment to the Plaintiff. It is agreed that there will be no further action taken or effect given to that Order by the parties in this matter. As such, and to the extent appropriate, it is hereby ORDERED that the Court's Order granting summary judgment on the issue of liability to the Plaintiff is hereby VACATED and this action is DISMISSED WITH PREJUDICE and stricken from the docket of the Court.

ENTER:

David A. Faber, Senior Judge

Agreed to by:

/s/ Steven P. McGowan

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